

Application No. 10/696,667

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REMARKS

In view of the preceding amendments and the following remarks, Applicants respectfully request the Examiner to reconsider the patent application identified above and withdraw the present rejection. Claims 1, 4-7, 9-17, 19, 20, 29 and 30 are pending in the present application, all of which stand currently rejected. Claims 11 and 12 have been canceled with this Amendment.

35 U.S.C. §103:

The Examiner rejected Claims 1, 4-7 and 9-15 under 35 U.S.C. §103(a) as being unpatentable over Kaplan (US 5,342,348) in view of Rioux et al. (US 6,981,964).

Applicants respectfully submit that the cited references fail to teach or suggest the present invention, as recited in the Claims.

For example Claim 1 recites the following limitations, among others:

an expandable stent which takes the form of a small diameter skeletal tubular member having a thin wall, said wall of said skeletal tubular member including a plurality of cells which are formed by a plurality of interconnected strut members;

*a plurality of elongated removable slat members interwoven between at least two of said plurality of strut members to temporarily attach plurality of said removable slat member to said skeletal tubular member to thereby provide a substantially continuous cover for the peripheral surface of said skeletal tubular member, wherein each slat member has a circumferential width greater than its wall thickness; and*

*a plurality of tethers each attached to one of said plurality of removable slat members in order to selectively remove any one of said removable slat members to thereby provide a selective passage for blood flow through a portion of the wall of said skeletal tubular member.*

The cited combination would not result in the present invention, and the references themselves teach away from such a combination.

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The Examiner rejected Claim 16, 17, 29 and 30 under 35 U.S.C. §103(a) over Kaplan in view of Masters et al. (2006/0167540) and Rioux et al.

The Examiner concedes that "Kaplan does not disclose there is a second inner stent" and "Furthermore, Kaplan does not disclose the removable slat members have tethers attached."

The Examiner further concludes that a disclosure of biodegradable filaments or strands makes obvious biodegradable tethers attached to slat members. All of these conclusive statements regarding obviousness constitute impermissible hindsight, reconstructing the present invention by referring to the present invention.

The Examiner rejected Claim 19 under 35 U.S.C. §103(a) over Kaplan in view of Hoganson et al. (2003/0074049).

The Examiner rejected Claim 20 under 35 U.S.C. §103(a) over Kaplan in view of Hoganson et al., Masters et al. and Rioux et al.

Applicants restate the arguments made in the prior amendment, dated June 29, 2007.

Applicants respectfully submit that the cited reference fail to teach or suggest the present invention, for the reason set forth above.

In the Response to Arguments, the Examiner stated that "Applicant has not defined 'major portion' ...." Applicants have amended the Claims to clarify the subject matter of the present invention.

Applicants respectfully request the Examiner to allow the present invention.

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